

THE OFFICE OF REGULATORY STAFF

DIRECT TESTIMONY & EXHIBIT

OF

JAMES M. MCDANIEL

JUNE 27, 2018



DOCKET NO. 2018-148-C

**PETITION OF THE OFFICE OF THE REGULATORY STAFF FOR
COMMISSION TO ORDER A RULE TO SHOW CAUSE AS TO WHY
THE CERTIFICATES OF PUBIC CONVENIENCE AND NECESSITY
FOR CERTAIN PROVIDERS OF TELECOMMUNICATIONS SERVICES
SHOULD NOT BE REVOKED FOR FAILURE TO FILE GROSS
RECEIPTS REPORTS, ANNUAL REPORT, SC USF CONTRIBUTION
WORKSHEET, AND/OR PAID GROSS RECEIPTS FEES**

DIRECT TESTIMONY OF

JAMES M. MCDANIEL

ON BEHALF OF

THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF

DOCKET NO. 2018-148-C

**IN RE: PETITION OF THE OFFICE OF REGULATORY STAFF FOR
COMMISSION TO ORDER A RULE TO SHOW CAUSE AS TO WHY THE
CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY FOR
CERTAIN PROVIDERS OF TELECOMMUNICATIONS SERVICES
SHOULD NOT BE REVOKED FOR FAILURE TO FILE GROSS RECEIPTS
REPORTS, ANNUAL REPORTS, SOUTH CAROLINA USF
CONTRIBUTION WORKSHEETS, AND/OR PAY GROSS RECEIPTS FEES**

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.

A. My name is James M. McDaniel. My business address is 1401 Main Street, Suite 800, Columbia, South Carolina 29201. I am employed by the State of South Carolina as a Program Manager, in the Telecommunications Department of the South Carolina Office of Regulatory Staff ("ORS").

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A. I received a B.S. Degree in Engineering from the University of South Carolina in December of 1975. I was employed by the Public Service Commission of South Carolina ("Commission") in February of 1976. I worked for over 28 years in the Commission's

1 Utilities Department. I was employed by the Office of Regulatory Staff in September 2004
2 to work in the Telecommunications Department. Most of my career has been devoted to
3 the regulation of the telecommunications industry in South Carolina.

4 **Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THE PUBLIC SERVICE**
5 **COMMISSION OF SOUTH CAROLINA?**

6 **A.** Yes.

7 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

8 **A.** The purpose of this testimony is to support ORS's Petition filed on April 26, 2018
9 in this docket and to present evidence that certain telecommunications carriers including
10 payphone service providers subject to the Commission's jurisdiction have failed to comply
11 with at least one of the following requirements: (1) file a 2017 Gross Receipts Report; (2)
12 file a 2016 Annual Report; (3) file a 2017 Universal Service Fund ("USF") Contribution
13 Worksheet ("USF Worksheet"), and/or (4) pay Gross Receipts Fees as required by law.

14 ORS seeks the revocation of the carrier's authority to operate in South Carolina and
15 recommends the Commission suspend the Eligible Telecommunications Carrier (ETC)
16 designation of wireless carriers that have failed to comply with filing and/or payment
17 requirements. The Commission has authority to determine whether a wireless carrier is
18 eligible to receive federal universal service support, and wireless carriers with ETC
19 designation have agreed to comply with the Commission and other requirements to
20 maintain their ETC designation in South Carolina.

21 **Q. ARE TELECOMMUNICATIONS CARRIERS REQUIRED TO FILE A GROSS**
22 **RECEIPTS REPORT?**

1 **A.** Yes. Pursuant to S.C. Code Ann. §§ 58-1-100, 58-3-540, 58-4-60 and 58-9-370
2 (Supp. 2014), telecommunications carriers, under the jurisdiction of the Commission, are
3 assessed annually by the Department of Revenue based on their gross income from their
4 operations in South Carolina.

5 **Q. ARE TELECOMMUNICATIONS CARRIERS REQUIRED TO FILE AN ANNUAL**
6 **REPORT?**

7 **A.** Yes. Pursuant to SC Code Ann. § 58-9-370 (Supp. 2014), telecommunications
8 carriers, under the jurisdiction of the Commission, are required to file Annual Reports.
9 Each wireless carrier with an ETC designation has also agreed to comply with South
10 Carolina reporting requirements in a stipulation with ORS. Blue Jay Wireless agreed to file
11 Annual Reports in the stipulation with ORS in Docket No. 2012-390-C. (Stipulation filed
12 March 6, 2013- Page 4, Paragraph 15).

13 **Q. ARE CARRIERS REQUIRED TO FILE A UNIVERSAL SERVICE FUND**
14 **CONTRIBUTION WORKSHEET (“USF WORKSHEET”)?**

15 **A.** Yes. The Commission has approved Universal Service Fund guidelines which
16 require each carrier to report on an annual basis the information necessary to allow ORS to
17 calculate each company’s South Carolina USF support amount. The guidelines were
18 approved in Commission Order No. 2001-996, dated October 1, 2001, and amended by
19 Order No. 2016-756, dated October 19, 2016. The latter Order modified the guidelines to
20 conform with Act 181 and Order Nos. 2016-22 and 2016-680 which required wireless
21 carriers and interconnected VOIP providers to support Universal Service in South Carolina.

22 **Q. ARE CARRIERS REQUIRED TO PAY GROSS RECEIPTS FEES?**

1 A. Yes. S.C. Code Ann. § 58-3-100 (2015) provides that each year the South Carolina
2 Department of Revenue ("DOR") "must assess each public utility its proportion of
3 regulatory expenses in proportion to its gross income from operations in South Carolina in
4 the year ending on the thirtieth day of June preceding that on which the assessment is made
5 which is due and payable on or before July fifteenth".

6 **Q. HOW DID YOU IDENTIFY THE CARRIERS WHICH HAVE NOT PAID THEIR**
7 **GROSS RECEIPTS FEES?**

8 A. The Department of Revenue ("DOR") provides an Outstanding Receivables Report
9 ("ORR") to ORS. DOR's ORR is generated monthly and provides a listing of telephone
10 utilities which have outstanding or unpaid gross receipts fees. Certificated telephone
11 utilities with outstanding gross receipts fees are identified in the attached Testimony
12 Exhibit A.

13 **Q. PLEASE EXPLAIN EXHIBIT A ATTACHED TO YOUR TESTIMONY.**

14 A. Testimony Exhibit A lists those carriers that remain out of compliance with the
15 regulatory requirements of South Carolina. The carriers with an X in Column B (Gross
16 Receipts Report), Column C (Gross Receipts Fees), Column D (Annual Report) and/or
17 Column E (USF Worksheet) continue to be out of compliance as of the date of this
18 testimony.

19 **Q HAS ORS RECEIVED ANY RESPONSES FROM THE CARRIERS INITIALLY**
20 **NAMED IN THE RULE TO SHOW CAUSE PETITION?**

21 A. Yes. ORS has received responses from several carriers since ORS filed the
22 Petition.

Any carrier that was listed on the April 26, 2018 Exhibit A to the Petition and has come into compliance with the Commission's requirements since ORS filed its petition has been removed from the Testimony Exhibit A. To the extent additional carriers continue to resolve their non-compliance issues before the Commission's hearing in this matter, ORS will provide a revised Exhibit A to accurately reflect only those companies which remain out of compliance as of the date of the Commission hearing.

Q. WHAT ACTION DOES ORS RECOMMEND THAT THE COMMISSION TAKE?

A. ORS recommends that the Commission revoke the Certificates of Public Convenience and Necessity for those wire line carriers that are out of compliance. Furthermore, ORS recommends that the Commission suspend the ETC designation of any wireless carriers out of compliance.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

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Telephone Utilities that have not filed Gross Receipts Report, Annual Report, SC USF Contribution Worksheet, and/or Paid Gross Receipts Fees

(An X indicates the report or payment was not received by the Office of Regulatory Staff or DOR)

Company Col. A	Gross Receipts Report Col. B	Gross Receipts Fees Col. C	Annual Report Col. D	USF Work sheet Col. E	Certificate Type Col. F	Address Col. G	Docket # Col. H	Order # Col. I	Entity Status Col. J	Agent Col. K
Blue Jay Wireless, LLC			X		Wireless ETC	4240 International Pkwy, Ste 140 Carrollton, TX 75007	2012- 390-C	2013- 167	Good Standing	COGENCY GLOBAL INC. 2 OFFICE PARK COURT SUITE 103 COLUMBIA, South Carolina 29223
Business Discount Plan, Inc.	X		X	X	IXC	1 World Trade Center, Ste 800 Long Beach, CA 90831	1996- 257-C	1997- 127	Good Standing	NATIONAL REGISTERED AGENTS, INC 2 OFFICE PARK COURT SUITE 103 COLUMBIA, South Carolina 29223
ComTech21, LLC			X		CLEC & IXC	One Barnes Park South Wallingford, CT 06492	2000- 306-C & 2004- 054-C	2001- 226 & 2004- 312	Good Standing	INCRP SERVICES, INC. 317 RUTH VISTA ROAD LEXINGTON, South Carolina 29073

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Company Col. A	Gross Receipts Report Col. B	Gross Receipts Fees Col. C	Annual Report Col. D	USF Work sheet Col. E	Certificate Type Col. F	Address Col. G	Docket # Col. H	Order # Col. I	Entity Status Col. J	Agent Col. K
Encompass Communications, LLC				X	IXC	119 W Tyler St, Ste 286 Longview, TX 75601	2000- 598- C	2001- 1096	Dissolved	C T CORPORATION SYSTEM 2 OFFICE PARK CT STE 103 COLUMBIA, South Carolina 29223
Ethel Bryant dba Mr. Telephone	X				Payphone Service Provider	1150 Glover St Orangeburg, SC 29115	1985- 150-C	2001- 1012	Dissolved	COLA BRYANT 120 CHURCH ST ORANGEBURG, South Carolina
Roman LD Inc.		X			IXC	2300 Valley View Ln, Ste 730 Irving, TX 75062	2011- 432-C	2012- 201	Forfeited	NATIONAL REGISTERED AGENTS, INC. 2 OFFICE PARK COURT SUITE 103 COLUMBIA, South Carolina 29223

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SBC Long Distance dba AT&T LD		X			IXC	1010 N St. Mary's St, Rm 13-21 San Antonio, TX 78215-2109	1997- 313-C	1998-45	Good Standing	C T CORPORATION SYSTEM 2 OFFICE PARK COURT SUITE 103 COLUMBIA, South Carolina 29223
Vitcom LLC	X				CLEC & IXC	1425 37th St Ste 210 Brooklyn, NY 11218	2015- 238-C	2015- 766	Good Standing	INCORP SERVICES, INC. 317 RUTH VISTA RD LEXINGTON, South Carolina 29073